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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,829	12/30/2003	Paul A. Hoisington	09991-148001	9375
26161	7590	07/14/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				DO, AN H
ART UNIT		PAPER NUMBER		
		2853		

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/749,829	HOISINGTON ET AL.	
	<b>Examiner</b>	Art Unit	
	An H. Do	2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 June 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-12, 16-18, 20 and 23-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 16-18, 20 and 23-28 is/are allowed.

6)  Claim(s) 1, 4, 8 and 10 is/are rejected.

7)  Claim(s) 2, 3, 5-7, 9, 11 and 12 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

The Response filed on 30 June 2006 has been acknowledged.

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Takata (US 6,193,356).

Takata discloses in Figures 1-3 the following claimed features:

Regarding claim 1, a drop ejection device (Figure 1), comprising: a flow path (33) in which fluid is pressurized to eject drops from a nozzle opening (formed in nozzle plate 34), a piezoelectric actuator (32) for pressurizing said fluid, and one or more waste fluid control apertures (suction portion 23) proximate (column 4, lines 55-56) the nozzle opening (formed in nozzle plate 34), the aperture (suction portion 23) being in communication with a vacuum source (suction pump 22, column 4, lines 56-65).

Regarding claim 4, wherein the control apertures (suction portion 23) are in communication with the flow path (33) in which fluid is pressurized (column 4, lines 57-60).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (US 6,193,356) in view of Le et al (US 4,613,875).

Takata discloses the claimed invention except for reciting the width of the nozzle opening is about 200 microns or less.

Le et al teach in the Table in column 7 that the diameter of the nozzle opening (23) is about 30-45 (element A) microns which is within the claimed range of 200 microns or less.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the diameter of the nozzle opening about 200 microns or less, as taught by Le et al into Yamamori et al, for the purpose of obtaining the optimal results (column 7, lines 54-60).

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (US 6,193,356) in view of Yamamori et al (US 4,358,781).

Takata discloses the claimed invention except for reciting a nonwetting coating proximate the nozzle opening.

Yamamori et al teach a nonwetting coating (annular surface 29) proximate the nozzle opening (20).

It would have been obvious to one having ordinary in the art at the time the invention was made to include a nonwetting coating proximate the nozzle opening, as taught by Yamamori et al into Takata, for the purpose of preventing the excessive waste ink sticking at nozzle plate.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection. The newly found reference of Takata (US 6,193,356) in combination with previously cited references disclose the claimed invention as shown above.

***Allowable Subject Matter***

8. Claims 16-18, 20 and 23-28 are allowed over prior arts as discussed in previous Office Action.

9. Claims 2, 3, 5-7, 9, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Contact Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to An H. Do whose telephone number is 571-272-2143. The examiner can normally be reached on Monday-Friday (Flexible).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen D. Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AD  
July 10, 2006

An H. Do  
Primary Examiner  
Art Unit 2853